



Senate

General Assembly

February Session, 2004

File No. 179

Senate Bill No. 396

Senate, March 23, 2004

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE SOLICITATION OF CHARITABLE FUNDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-190b of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2004*):

3 Every charitable organization not exempted by section 21a-190d
4 shall register with the department prior to conducting any solicitation
5 or prior to having any solicitation conducted on its behalf by others.
6 Application for registration shall be made on forms prescribed by the
7 department and shall include payment of a fee of [twenty] two
8 hundred fifty dollars. Two authorized officers of the organization shall
9 sign the registration form and shall certify that the statements therein
10 are true and correct to the best of their knowledge. A chapter, branch
11 or affiliate in this state of a registered parent organization shall not be
12 required to register provided the principal office of the parent
13 organization is located in this state and provided the parent
14 organization files a consolidated annual report for itself and its

15 chapter, branch or affiliate.

16 Sec. 2. Section 21a-190c of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective October 1, 2004*):

18 (a) Every charitable organization required to register pursuant to
19 section 21a-190b, as amended by this act, shall annually file with the
20 department a report for its most recently completed fiscal year, which
21 report shall include (1) a financial statement, (2) an itemized list of (A)
22 all funds raised with the assistance of any fund-raising counsel or paid
23 solicitor, or both, and (B) the percentage of such funds that any such
24 fund-raising counsel or paid solicitor retained or was paid, and (3)
25 such other information as the commissioner may require. Such
26 charitable organization shall file such report not more than five
27 months following the close of its fiscal year, which report shall be
28 accompanied by a fee of twenty-five dollars and shall be signed by two
29 authorized officers of the organization, one of whom shall be the chief
30 fiscal officer of the organization. The information contained in such
31 report shall be available to the public. Such officers shall certify that
32 such report is true and correct to the best of their knowledge. The
33 commissioner shall prescribe the form of the report and may prescribe
34 standards for its completion. The commissioner may accept, under
35 such conditions as said commissioner may prescribe, a copy or
36 duplicate original of financial statements, reports or returns filed by
37 the charitable organization with the Internal Revenue Service or
38 another state having requirements similar to the provisions of sections
39 21a-190a to 21a-190l, inclusive, as amended.

40 (b) A charitable organization with gross revenue in excess of two
41 hundred thousand dollars in the year covered by the report shall
42 include with its financial statement an audit report of a certified public
43 accountant. For purposes of this section, gross revenue shall not
44 include grants or fees from government agencies or the revenue
45 derived from funds held in trust for the benefit of the organization.

46 (c) The commissioner may, upon written request and for good cause
47 shown, grant an extension of time, not to exceed three months, for the

48 filing of such report.

49 (d) An additional late filing fee of twenty-five dollars shall
50 accompany any report which is not filed in a timely manner.

51 (e) Every charitable organization required to file an annual report
52 and every charitable organization subject to the provisions of
53 subdivision (6) of section 21a-190d shall keep true fiscal records which
54 shall be available to the department for inspection upon request. Such
55 organization shall retain such records for no less than three years after
56 the end of the fiscal year to which they relate.

57 (f) Every charitable organization shall file with the department an
58 accounting of all its expenditures of its most recently completed
59 quarter. Such charitable organization shall file such report not more
60 than thirty days following the close of every quarter. The
61 commissioner shall prescribe the form and content of such report.

62 Sec. 3. Subsection (a) of section 21a-190e of the general statutes is
63 repealed and the following is substituted in lieu thereof (*Effective*
64 *October 1, 2004*):

65 (a) Each contract between a charitable organization and a fund-
66 raising counsel shall be in writing and shall be filed by the fund-raising
67 counsel with the department at least fifteen days prior to the
68 performance by the fund-raising counsel of any material services
69 pursuant to such contract. The contract shall contain such information
70 as will enable the department to identify the services the fund-raising
71 counsel is to provide and the manner and amount of [his] such fund-
72 raising counsel's compensation. Immediately prior to the start of the
73 solicitation event or campaign that is the subject of such contract, the
74 department shall place an advertisement in a newspaper having a
75 substantial circulation in the town or towns in which the solicitation
76 event or campaign is to occur. Such advertisement shall describe the
77 terms of the contract between the fund-raising counsel and the
78 charitable organization and shall include the percentage of the raised
79 funds to be retained by the fund-raising counsel. The cost of such

80 advertisement shall be paid to the department by the fund-raising
81 counsel as a fee at the time such contract is filed with the department.

82 Sec. 4. Section 21a-190f of the general statutes is repealed and the
83 following is substituted in lieu thereof (*Effective October 1, 2004*):

84 (a) No person shall act as a paid solicitor unless [he] such person has
85 first registered with the department. Applications for registration and
86 for the renewal of a registration shall be in writing, under oath, in the
87 form prescribed by the department and shall be accompanied by a fee
88 in the amount of one [hundred twenty] thousand dollars. The
89 application shall contain such information as the department shall
90 require. Each registration shall be valid for one year and may be
91 renewed for additional one-year periods.

92 (b) An applicant for registration or for a renewal of registration as a
93 paid solicitor shall, at the time of making such application, file with
94 and have approved by the department a bond, in which the applicant
95 shall be the principal obligor in the sum of twenty thousand dollars,
96 with one or more responsible sureties whose liability in the aggregate
97 as such sureties shall be no less than such sum. The paid solicitor shall
98 maintain the bond in effect as long as the registration is in effect. The
99 bond shall run to the state and to any person who may have a cause of
100 action against the principal obligor of the bond for any liabilities
101 resulting from the obligor's conduct of any activities subject to sections
102 21a-190a to 21a-190l, inclusive, as amended by this act, or arising out of
103 a violation of said sections or any regulation adopted pursuant to said
104 sections.

105 (c) No less than twenty days prior to the commencement of each
106 solicitation campaign, a paid solicitor shall file with the department a
107 copy of the contract described in subsection (d) of this section. [and
108 shall] Immediately prior to the start of the solicitation event or
109 campaign that is the subject of such contract, the department shall
110 place an advertisement in a newspaper having a substantial circulation
111 in the town or towns in which the solicitation event or campaign is to
112 occur. Such advertisement shall describe the terms of the contract

113 between the paid solicitor and the charitable organization and shall
114 include the percentage of the raised funds to be retained by the paid
115 solicitor. The cost of such advertisement shall be paid to the
116 department by the paid solicitor as a fee at the time such contract is
117 filed with the department. The paid solicitor shall also file a completed
118 solicitation notice on forms prescribed by the department. A
119 solicitation notice shall be in writing and under oath, and shall include
120 a description of the solicitation event or campaign, the location and
121 telephone number from which the solicitation is to be conducted, the
122 names and residence addresses of all employees, agents or other
123 persons however styled who are to solicit during such campaign and
124 the account number and location of all bank accounts where receipts
125 from such campaign are to be deposited. Copies of campaign
126 solicitation literature, including the text of any solicitation to be made
127 orally, shall be attached to the solicitation notice. The charitable
128 organization on whose behalf the paid solicitor is acting shall certify
129 that the solicitation notice and accompanying material are true and
130 complete.

131 (d) A contract between a paid solicitor and a charitable organization
132 shall be in writing, shall clearly state the respective obligations of the
133 paid solicitor and the charitable organization and shall state the
134 minimum amount [which] that the charitable organization shall
135 receive as a result of the solicitation campaign, which minimum
136 amount shall be stated as a percentage of the gross revenue. Such
137 minimum amount shall not include any amount [which] that the
138 charitable organization is to pay as expenses of the solicitation
139 campaign.

140 (e) A paid solicitor shall, prior to orally requesting a contribution,
141 and at the same time at which a written request for a contribution is
142 made, clearly and conspicuously disclose at the point of solicitation
143 [his] such solicitor's name as on file with the department, the fact that
144 [he] such solicitor is a paid solicitor and the percentage of the gross
145 revenue which the charitable organization shall receive as identified in
146 subsection (d) of this section.

147 (f) A paid solicitor shall, in the case of a solicitation campaign
148 conducted orally, whether by telephone or otherwise, send a written
149 confirmation to each person who has pledged to contribute, no more
150 than five days after such person has been solicited, which confirmation
151 shall include a clear and conspicuous disclosure of the information
152 required by subsection (e) of this section.

153 (g) A paid solicitor shall not represent that any part of the
154 contributions received will be given or donated to any charitable
155 organization unless such organization has consented in writing to the
156 use of its name, prior to the solicitation. Such written consent, if given,
157 shall be signed by two authorized officers, directors or trustees of the
158 charitable organization.

159 (h) No paid solicitor shall represent that tickets to an event are to be
160 donated for use by another, unless the paid solicitor has first obtained
161 a commitment, in writing, from a charitable organization stating that it
162 will accept donated tickets and specifying the number of tickets which
163 it is willing to accept and provided no more contributions for donated
164 tickets shall be solicited than the number of ticket commitments
165 received from the charitable organization.

166 (i) A paid solicitor shall require any person [he] such solicitor
167 directly or indirectly employs, procures or engages to solicit to comply
168 with the provisions of subsections (e) to (h), inclusive, of this section.

169 (j) A paid solicitor shall file a financial report for the campaign with
170 the department no more than ninety days after a solicitation campaign
171 has been completed, and on the anniversary of the commencement of
172 any solicitation campaign which lasts more than one year. The
173 financial report shall include gross revenue and an itemization of all
174 expenditures incurred. The report shall be completed on a form
175 prescribed by the department. An authorized official of the paid
176 solicitor and two authorized officials of the charitable organization
177 shall sign such report and they shall certify, under oath, that such
178 report is true and complete to the best of their knowledge.

179 (k) A paid solicitor shall maintain during each solicitation campaign
180 and for not less than three years after the completion of each such
181 campaign the following records, which shall be [available to the
182 department for inspection upon request] submitted to the department
183 quarterly: (1) The name and address of each contributor and the date
184 and amount of the contribution, provided the department shall not
185 disclose this information except to the extent necessary for
186 investigative or law enforcement purposes; (2) the name and residence
187 of each employee, agent or other person involved in the solicitation;
188 and (3) records of all income received and expenses incurred in the
189 course of the solicitation campaign.

190 (l) If a paid solicitor sells tickets to an event and represents that
191 tickets will be donated for use by another, the paid solicitor shall
192 maintain, for not less than three years after the completion of such
193 event, the following records, which shall be available to the
194 department for inspection upon request: (1) The name and address of
195 contributors donating tickets and the number of tickets donated by
196 each contributor; and (2) the name and address of all organizations
197 receiving donated tickets for use by others, including the number of
198 tickets received by each organization.

199 (m) All funds collected by the paid solicitor shall be deposited in a
200 bank account. The bank account shall be in the name of the charitable
201 organization with whom the paid solicitor has contracted and the
202 charitable organization shall have sole or joint control of the account.

203 (n) Any material change in any information filed with the
204 department pursuant to this section shall be reported in writing by the
205 paid solicitor to the department not more than seven days after such
206 change occurs.

207 (o) No person may act as a paid solicitor if such person, any officer
208 or director thereof, any person with a controlling interest therein, or
209 any person the paid solicitor employs, engages or procures to solicit
210 for compensation, has been convicted by a court of any state or the
211 United States of any felony, or of any misdemeanor involving

212 dishonesty or arising from the conduct of a solicitation for a charitable
213 organization or purpose. Any denial, suspension or revocation of the
214 registration of a paid solicitor based on a violation of this subsection
215 shall be made in accordance with the provisions of section 46a-80.

216 Sec. 5. Section 21a-190k of the general statutes is repealed and the
217 following is substituted in lieu thereof (*Effective October 1, 2004*):

218 The commissioner may adopt regulations_z in accordance with the
219 provisions of chapter 54_z in order to carry out and enforce the
220 provisions of sections 21a-190a to 21a-190l, inclusive, as amended by
221 this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>

GL *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Consumer Protection, Dept.	GF - Revenue Gain	Minimal	Minimal
Consumer Protection, Dept.	GF - Cost	82,976	103,969
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	36,470	48,627

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill increases registration fees for charitable organizations from \$20 to \$250 and registration fees for their paid solicitors from \$120 to \$1000. In FY 03, the Department of Consumer Protection collected \$7,640 in registration fees from charitable organizations. In the same period, the department collected \$9,840 in registration fees from paid solicitors.

The increase in regulatory responsibilities under the bill require the Department of Consumer Protection to hire one administrative hearings attorney (an annual salary of \$67,053) and one secretary (an annual salary of \$39,916).¹ A one-time start-up cost of \$5,000 for equipment would be eliminated in FY 06.

¹ Salary and fringe benefit costs for FY 05 reflect the October 1, 2004 effective date of the bill.

OLR Bill Analysis

SB 396

AN ACT CONCERNING THE SOLICITATION OF CHARITABLE FUNDS**SUMMARY:**

This bill (1) increases the registration fees for charitable organizations from \$20 to \$250 and for their paid solicitors from \$120 to \$1,000, (2) requires the Department of Agriculture and Consumer Protection (DACP) to publish advertisements about the contracts and pay of paid solicitors and fund-raising counsels before the start of and during each solicitation campaign, (3) increases reporting requirements for charities and paid solicitors, and (4) requires a fund-raising counsel's contract to state the amount of his compensation.

The law makes violations of the Solicitations of Charitable Funds Act, including the changes in this bill, punishable administratively through sanctions against a registration and criminally. By law, a person who commits a knowing violation may be punished with imprisonment of up to one year, a fine of up to \$5,000, or both.

EFFECTIVE DATE: October 1, 2004

FUND-RAISING CAMPAIGN NOTICES

The bill requires DACP, immediately before the start of a charitable fund-raising campaign, to publish an advertisement describing the contract between the charity and any paid solicitor or fund-raising counsel. A paid solicitor is an organization or person, other than an employee, paid to solicit charitable contributions. A fund-raising counsel is someone who is paid to manage or consult in relation to a charitable solicitation campaign, but who does not himself solicit funds. The law requires paid solicitors and fund-raising counsels to file with DACP copies of their contracts with charities before the start of the fund-raising campaigns described in the contracts.

The advertisement must include the percentage of the raised funds to

be kept by the solicitor or counsel and be placed in a newspaper having substantial circulation in the town or towns where the campaign will take place. The solicitor or counsel must pay any publication costs as a fee when the contract is filed.

CHARITY'S REPORTING REQUIREMENTS

All registered charities must report annually on their finances to DACP. The bill requires the report to include an itemized list of all funds raised through fund-raising counsels, paid solicitors, or both, and the percentage of these funds kept by or paid to the solicitors and counsels. It specifies that the information in the annual report must be available to the public.

The bill requires charities to file quarterly reports that account for all expenditures. The reports must be filed within 30 days after the close of the quarter. The DACP commissioner must prescribe the report's form and content.

PAID SOLICITOR'S REPORTING REQUIREMENTS

The bill requires paid solicitors to report quarterly certain information that existing law requires them to keep available for inspection by DACP on request. The information relates to each solicitation campaign and is: (1) each contributor's name and address and the amount and date of each contribution; (2) the name and residence of each employee, agent, or anyone else involved in the solicitation; and (3) records of all income received and expenses incurred in the course of the solicitation campaign. The law provides that the department must not disclose contributors' names, addresses, contribution amounts, and dates except to the extent necessary for law enforcement purposes.

COMMITTEE ACTION

General Law Committee

Joint Favorable Report

Yea 19 Nay 0